IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1232 of 2005

IN

WRIT PETITION NO. 2249 OF 2005

Ganpat G. Dhale .. Petitioner

versus

The Commissioner, Kolhapur Municipal Corporation. .. Respondents

...

Mr.Pratap Patil i/b B.R. Patil for the petitioner.

None for the respondents

CORAM : B.H. MARLAPALLE,J

DATED : 6th October 2005.

P.C.:

1. Heard Mr.Patil, the learned counsel for the applicant.

2. The applicant was working with the Municipal

Corporation, Kolhapur as a scavanger and he had claimed that he was removed from service illegally with effect from 4th October 1975. He therefore, approached to the Labour Court by filing Complaint (ULP) No.31 of 1976. The complaint was allowed by the Labour Court vide its judgement and order dated 21st April 1989. The Corporation therefore filed Revision Application (ULP) 388 of 1989 which was allowed by the Industrial Court on 11th August 1994 and the order of the Labour Court was set aside.

3. Writ Petition no. 2249 of 1995 came to be filed before this Court challenging the order passed by the Industrial Court on 11th August 1994 and by an order dated 7th September 1995, the petition was admitted but the prayer for interim relief was not considered.

4. Writ Petition no.2249 of 1995 came up for final hearing on 8th November 2001. Again on 18th November 2001, when the petition was called out for final hearing, none was present on behalf of the petitioner and therefore, this Court dismissed the petition for default.

5. This application for restoration has been filed belatedly and that too without filing a separate application for condonation of delay which as per the office report is three years and 126 days. The reason for non appearance when the petition was called out for final hearing is claimed to be oversight and inadvertence on the part of the learned Advocate. On 26th March 2002, the petitioner died at Kolhapur and his LRs were sought to be brought on record by filing Civil Application (Stamp) no.47794 of 2002. It is not known what steps were taken to obtain orders on this application and it is claimed that in the month of January 2005, the LRs of the petitioner received a letter dated 1st January 2005 from the respondent no.1 informing that the request for reinstatement cannot be considered and the petition was dismissed.

6. The termination of service had taken effect on 4th October 1975 and on scrutiny of the evidence placed before the Labour Court, the Industrial Court had recorded a finding that the original complainant/petitioner was guilty of the misconduct, he was charged and therefore, the order of the Labour Court was set aside. On 11.8.1994, this application for restoration filed after more than three years

therefore need not be entertained and more so, when the explanation furnished for the delay caused is not satisfactory.

7. Application is rejected.

B.H. MARLAPALLE, J